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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment pronounced on : 17.04.2025

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W.P.(C) 3019/2025 & CM APPL. 14293/2025, CM APPL. 14294/2025 & CM APPL. 14295/2025**UNIQUE IDENTIFICATION AUTHORITY OF INDIAPetitioner****Through: Mr. Vipin Jai and Mr. Ujjwal Goel,
Advocates.****versus****CENTRAL INFORMATION COMMISSION****.....Respondent****Through: None.****CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition seeks to assail an order dated 24.05.2024 passed by the Central Information Commission (CIC) whereby a penalty of Rs. 10,000/- (each) was imposed on the Chief Public Information Officer, Unique Identification Authority of India (UIDAI) and First Appellate Authority, UIDAI under Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as "RTI Act").

2. The petitioner has filed the present petition seeking the following prayers:

"i. Pass an appropriate Writ, Order or Direction, quashing the Impugned Order bearing CIC/NITIA/A/2022/669319, dated 24.05.2024, being based on incorrect facts and law; and

ii. Pass an appropriate Writ, Order or Direction, directing the Respondent to take action on the representation/ application for modification of the Impugned Order dated 24.05.2024; and

iii. Pass an order in the interim staying the operation of the Impugned Order to the extent of establishment of mala fide against the Petitioner as well as

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the penalty imposed under Section 20(1) of the RTI Act, 2005; and
iv. Any other relief(s) which this Hon'ble Court may deem it in the favour of
the Petitioner and against the Respondents."

3. An RTI application dated 22.08.2022 was filed by Mr. Krishna Deo Prasad Sahu (hereinafter 'the applicant'), an IFS (member of All India Services of Kerala Cadre-2005) before the CPIO, UIDAI i.e., Director (HR), UIDAI (hereinafter 'the CPIO'). In the said application, the applicant sought a total of eight separate points of information related to his pre-mature repatriation from the post of Additional Director General, Regional Office, Ranchi, Jharkhand, UIDAI (on deputation).

4. The CPIO *vide* letter dated 21.09.2022 responded to the queries raised by the applicant as under:

Sir,

Please refer to your RTI application dated 22.08.2022 received in this office on 25.08.2022. The desired information w.r.t. your RTI application is appended below :

<i>Point No.</i>	<i>Information sought</i>	<i>Reply thereof</i>
<i>1.</i>	<i>Furnish certified copy of the Note Sheets of the File and Order/O.M./Notification of the competent authority of UIDAI, communicating/conveying its concurrence for appointment of Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005) at UIDAI.</i>	<i>Copy of notification dated 29.04.2019 and copy of notesheet are attached as Annexure 'A' & 'B' respectively.</i>
<i>2.</i>	<i>Furnish the certified copy of the office orders or notifications of the UIDAI, assigning the roles and responsibilities to Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005) in accordance with the Order No. 22/05/2017 EO(SM-I), DoPT, dated 26.10.2018, upon his joining at UIDAI, regional Office, Ranchi</i>	<i>Copy of work allocation dated 05.11.2018 is attached at Annexure 'C'.</i>



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	w.e.f. 01.11.2018	
3.	<i>Furnish certified copy of all the Office Orders of the UIDAI, Regional Office, Ranchi, communicated to the UIDAI HQ, New Delhi (for the period from 01.11.2018 to 18.08.2022) of Work Allocation to Dr. Krishna Deo Prasad Sahu, IFS (Keral-2005), ADG/Director, UIDAI, Regional Office, Ranchi</i>	<i>Same as in para 2 above</i>
4.	<i>Furnish certified copy of Report communicated to the UIDAI, HQ, New Delhi by the DDG, UIDAI, Regional Office, Ranchi who is/were Reporting/Controlling Authority w.r.t. Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005), ADG/Director, for breach of any regulation of the Authority or negligence, inefficiency in discharge of the assigned duties or violations of any of the provision of the All India Services (Conduct) Rules, 1968 and/or Unique Identification Authority of India (Salary, Allowances and other Terms and Conditions of Service of Employees) Regulations, 2020 during the <u>period of his working at UIDAI w.e.f. 01.11.2018 till date.</u></i>	<i>Information can not be provided under Section 8(h) of RTI Act.</i>
5.	<i>Furnish certified copy of the show-cause notice issued or explanation called for, if any w.r.t. reported (by the Reporting/Controlling Authority) breach of any regulation of the Authority or negligence, inefficiency in discharge of the assigned duties or violations of any of the provisions of All India Services (Conduct) Rules, 1968 and/or Unique Identification</i>	<i>No such document is available with UIDAI Headquarters</i>



	<i>Authority of India (Salary, Allowances and other Terms and Conditions of Service of Employees Regulations, 2020 by Dr. Krishna Deo Prasad Sahu, IFS, Director, UIDAI, Regional Office, Ranchi during the period of his working at UIDAI w.e.f. 01.11.2018 till date</i>	
6.	<i>Furnish certified copy of the order of authorization for regulation of deputation tenure of a member of All India Services appointed/deputed at UIDAI vide appointment order of the Competent Authority (ACC) as per the Deputation Guidelines for All India Service Officers vide F. No. 14017/33/2005-AIS (II) (PT.1) dated 28.11.2007 of the Govt. of India, DoPT.</i>	<i>Copy of ACC order dated 26.10.2018 is attached as Annexure 'D'.</i>
7.	<i>Furnish certified copy of Note Sheet of the file and letter/Office Memorandum, of the UIDAI, HQ, New Delhi communicated, if any, as per the procedure laid down by the DoPT i.r.o. the officers of All India Services working under the Government of India and Organizations under the Government of India and recommending with Administrative Exigencies/grounds for curtailment of deputation tenure and pre-mature repatriation of the services of Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005), ADG/Director, UIDAI, Regional Office, Ranchi.</i>	<i>Copy of notesheet and letter to DoPT dated 14.07.2022 are attached as Annexure 'E' & 'F' respectively.</i>
8.	<i>Furnish certified copy of Order/Office Memorandum of Constitution/Establishment of DDG Secretariat at UIDAI,</i>	<i>No such document is available with UIDAI Headquarters</i>



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	<i>Regional Office, Ranchi and sanctioned strength of staffs in the said DDG Secretariat, at Ranchi.</i>	
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5. However, on the premise that the information sought has neither been satisfactorily attended nor furnished by the CPIO the applicant appealed 7 out of 8 responses (except Serial no.5) provided by the CPIO, in a first appeal before the First Appellate Authority (FAA) i.e., Deputy Director General (HR) UIDAI (hereinafter 'the FAA'). The application filed before the FAA reads as under:

"The applicant, I, Dr. Krishna Deo Prasad Sahu, IFS, submit this First Appeal being aggrieved by the information furnished by the CPIO, vide letter dated-21.09.2022 as per the details given below-

<i>Point No.</i>	<i>Information Sought</i>	<i>Reply thereof from CPIO</i>	<i>Ground of Appeal & Request</i>
<i>1.</i>	<i>Furnish certified copy of the Note Sheets of the File and Order/ O.M./Notification of the competent authority of UIDAI, communicating/conveying its concurrence for appointment of Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005) at UIDAI</i>	<i>Copy of notification dated 29.04.2019 and copy of note-sheet are attached as Annexure 'A' & 'B' respectively</i>	<i>The information furnished is not the desired one, therefore, <u>the sought information may please be furnished.</u></i>
<i>2.</i>	<i>Furnish the certified copy of the office orders or notifications of the UIDAI, assigning the roles and responsibilities to Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005) in accordance with the Order No. 22/05/2017 EO(SM-1), DOPT, dated 26.10.2018,</i>	<i>Copy of work allocation dated 05.11.2018 is attached as Annexure 'C'.</i>	<i>The information furnished is not the desired one, therefore, <u>the sought information may please be</u></i>



	<i>upon his joining at UIDAI, regional Office, Ranchi w.e.f. 01.11.2018.</i>		<u>furnished.</u>
3.	<i>Furnish certified copy of all the Office Orders of the UIDAI, Regional Office, Ranchi, communicated to the UIDAI, HQ, New Delhi (for the period from 01.11.2018 to 18.08.2022) of work Allocation to Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005), ADG/Director, UIDAI, Regional Office, Ranchi.</i>	<i>Same as in para 2 above</i>	<u>Partial information</u> furnished, therefore, <u>complete information may please be provided.</u>
4.	<i>Furnish certified copy of Report communicated to the UIDAI, HQ, New Delhi by the DDG, UIDAI, Regional Office, Ranchi who is/were Reporting/Controlling Authority w.r.t. Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005), ADG/Director for breach of any regulation of the Authority or negligence, inefficiency in discharge of the assigned duties or violations of any of the provision of the All India Services (Conduct) Rules, 1968 and/or Unique Identification Authority of India (Salary, Allowances and other Terms and Conditions of Service of Employees) Regulations, 2020 during the period of his working at UIDAI w.e.f. 01.11.2018 till date.</i>	<i>Information can not be provided under Section 8(h) of RTI Act.</i>	<i>The information furnished at Point No.7, shows that Action has been initiated/completed at UIDAI, HQ, HR Division as per the report of DDG, RO, Ranchi. Therefore, <u>the sought information may please be provided.</u></i>
5.	<i>Furnish certified copy of the show-cause notice</i>	<i>No such document is available with UIDAI</i>	<i>Not appealed.</i>



	<i>issued or explanation called for, if any w.r.t. reported (by the Reporting/Controlling Authority) breach of any regulation of the Authority or negligence, inefficiency in discharge of the assigned duties or violations of any of the provisions of All India Services (Conduct) Rules, 1968 and/or Unique Identification Authority of India (Salary, Allowances and other Terms and Conditions of Service of Employees) Regulations, 2020 by Dr. Krishna Deo Prasad Sahu, IFS, Director, UIDAI, Regional Office. Ranchi during the period of his working at UIDAI w.e.f. 01.11.2018 till date</i>	<i>Headquarters</i>	
6.	<i>Furnish certified copy of the order of authorization for regulation of deputation tenure of a member of All India Services appointed/deputed at UIDAI vide appointment order of the Competent Authority (ACC) as per the Deputation Guidelines for All India Service Officers vide F. No. 14017/33/2005-AIS (II) (Pt.1) dated 28.11.2007 of the Govt. of India, DoPT.</i>	<i>Copy of ACC order dated 26.10.2018 is attached as Annexure 'D'.</i>	<i>The information furnished is not the desired one, therefore, <u>the sought information may please be furnished.</u></i>
7.	<i>Furnish certified copy of Note Sheet of the file and letter/Office</i>	<i>Copy of notesheet and letter of DoPT dated 14.07.2022 are</i>	<i>Part of the copy of notesheet</i>



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	<i>Memorandum, of the UIDAI, HQ, New Delhi communicated, if any, as per the procedure laid down by the DoPT i.r.o. the officers of All India Services working under the Government of India and Organizations under the Government of India and recommending with Administrative Exigencies/grounds for curtailment of deputation tenure and pre-mature repatriation of the services of Dr. Krishna Deo Prasad Sahu, IFS (Kerala-2005), ADG/Director, UIDAI, Regional Office, Ranchi.</i>	<i>attached as Annexure 'E' and 'F' respectively.</i>	<i>furnished is <u>missing (from note#1 to note# 16)</u> therefore, <u>complete information may please be provided.</u></i>
8.	<i>Furnish certified copy of Order/Office Memorandum of Constitution/Establishment of DDG Secretariat at UIDAI, Regional Office, Ranchi and sanctioned strength of staffs in the said DDG Secretariat, at Ranchi.</i>	<i>No such document is available with UIDAI Headquarters.</i>	<i>As per Office Order No. 01/2022-23 (Revised), dated 13.05.2022 of the UIDAI, RO, Ranchi, provision has been made for Expenditure of the DDG, Secretariat from Government Exchequer (Copy Encl.), <u>therefore, the sought information</u></i>



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			<u>may please be provided.</u>
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6. *Vide* order dated 14.11.2022 the FAA dismissed the aforesaid appeal by observing as under:

“2. With respect to Point no. 1,2,3,4,6 and 8 the information/document as available in the records of UIDAI Headquarters, as sought vide RTI application dated 22.08.2022 have been provided by the CPIO vide dated 21.09.2022.

3. The relevant pages of Notesheet with respect to the information sought vide Point No.7 of your RTI application dated 22.08.2022 have been provided by the CPIO vide dated 21.09.2022

4. In light if the above I do not find merit in the first appeal. The first appeal is disposed of.”

7. Pursuant to the aforesaid order, a second appeal came to be filed by the applicant on 26.12.2022 under Section 19(3) of the Right to Information Act before the CIC. The applicant sought for pecuniary/special damages against the alleged ‘arbitrary response’ of the CPIO (Mr. Piyush Chand) and FAA (Mr. Atul Kumar Chaudhary). The applicant was aggrieved by the CPIO and FAA exempting information sought under serial no.4 by invoking Section 8(1)(h) of the RTI Act and on account of furnishing of partial document/s pertaining to information sought at serial no.7 of RTI application filed by the petitioner. The relevant portion of the response by the CPIO and FAA to queries i.e., serial no(s).4 and 7 reads as under:

Sno.	Information sought	Reply by the CPIO	Reply by FAA
4.	Furnish certified copy of report communicated to the UIDAI, HQ, New Delhi by the DDG, UIDAI, Regional Office, Ranchi who	Information cannot be provided under Section 8(h) of the RTI Act.	The information /document as available in the records of UIDAI Headquarters, as sought vide RTI application dated



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	is/were Reporting/Controlling Authority w.r.t Dr. Krishna Deo Prasad Sahu, IFS (Kerela-2005), ADG/Director, for breach of any regulation of the Authority or negligence, inefficiency in discharge if the assigned duties of violations of any of the provisions of the All India Services (conduct) Rules, 1969 and/or Unique Identification Authority of India (Salary, Allowances and other Terms and Conditions of Service of Employees) Regulations, 2020 during the period of his working at UIDAI w.e.f 01.11.2018 till dated.		22.08.2022 have been provided by the CPIO vide dated 21.09.2022
7.	Furnish certified copy of Note Sheet of the file and letter/Office Memorandum, of the UIDAI, HQ, New Delhi communicated, if any, as per the procedure laid down by the DoPT i.r.o the officers of All India Services working under the Government of India and Organizations under the Government of	Copy of notesheet and letter to DoPT dated 14.07.2022 are attached as Annexure 'E' and 'F' respectively.	The relevant pages of Notesheet with respect to the information sought vide Point No.7 of your RTI application dated 22.08.2022 have been provided by the CPIO vide dated 21.09.2022



	India and recommending with Administrative Exigencies/grounds for curtailment of deputation tenure and pre-mature reparation of the services of Dr. Krishna Deo Prasad Sahu, IFS (Kerela-2005), ADG/Director, UIDAI Regional Office, Ranchi.		
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8. Subsequently, a notice dated 01.12.2023 was issued by the CIC to the CPIO and FAA for hearing on 02.01.2024. After the aforesaid hearing, the CIC passed an order dated 11.01.2024 directing the CPIO (Mr. Piyush Chand) and FAA (Mr. Atul Kumar Chaudhary) to show-cause as to why maximum penalty under Section 20(1) of the RTI Act may not be imposed upon them. *Vide* the said order, the CPIO and FAA were also directed to furnish information pertaining to serial no(s).4 and 7 of the RTI application to the applicant within a period of 3 weeks from the date of receipt of the said order. The said order reads as under:

“Decision:

The Commission after adverting to the fact, perusal of records and hearing both the parties noted that the respondent have provided point-wise information/reply to the appellant vide letter dated 21.09.2022. The appellant during the hearing expressed his satisfaction over the information provided by the respondent on the all the points except on point nos. 4 and 7 of the RTI application.

Perusal of the records revealed that the respondent had denied the information sought on point no. 4 of the RTI application under Section 8(1) (h) of RTI Act. The respondent failed to explain as to how the exemption claimed by them would apply in this case. Plain reading of section 8 (1) (h) of the RTI Act, states that anything which would hamper



and interfere with procedure followed in the investigation and have the effect to hold back the progress of investigation, apprehension of offenders or prosecution of offenders. However, the impediment, if alleged, must be actual and not make belief and a camouflage to deny information.

In B.5. Mathur vs. Public Information Officer of Delhi High Court, (2011) 125 DRJ 508, High Court of Delhi has made the following observations:

"19. The scheme of the RTI Act, its objects and reasons indicate that disclosure of information is the rule and non-disclosure the exception. A public authority which seeks to withhold information available with it has to show that the information sought is of the nature specified in Section 8 RTI Act. As regards Section 8(1)(h) RTI Act, which is the only provision invoked by the Respondent to deny the Petitioner the information sought by him, it will have to be shown by the public authority that the information sought "would impede the process of investigation." The mere reproducing of the wording of the statute would not be sufficient when recourse had to Section 8(1)(h) RTI Act. The burden is on the public authority to show in what manner the disclosure of such information would 'impede' the investigation. Even if one went by the interpretation placed by this Court in W.P.(C) No. 7930 of 2009 [Additional Commissioner of Police (Crime) v. CIC, decision dated 30th November 2009] that the word "impede" would "mean anything which would hamper and interfere with the procedure followed in the investigation and have the effect to hold back the progress of investigation", it has still to be demonstrated by the public authority that the information if disclosed would indeed "hamper" or "interfere" with the investigation, which in this case is the second enquiry."

It may be noted that no such justification has been provided by the Respondent public authority while denying information in the instant case, which arise out of Appellant's own service matter. The concerned FAA has also failed to discharge his duty in the spirit of RTI Act blindly endorsing the reply of the CPIO without studying the facts of the case in hand and thereby, the FAA has not passed speaking order.

In addition to the above, the respondent had also not provided complete information against point no. 7 of the RTI application. Though, during the course of hearing, they expressed their preparedness to provide the complete information on point no. 7 along with all the annexures. It is pertinent to mention that information as sought by the appellant in the aforesaid RTI application should have been provided within the time



frame. As per the submission of the appellant, if the information sought was given within the timeline, he could have raised his grievance before an appropriate authority. But due to lapse of time, damaged done to him may not be cured. The Commission observes that reply given by the respondent is evasive, misleading and incomplete.

In view of the above, Shri Piyush Chand Gupta, the CPIO and Shri Atul Kumar Chaudhary, the FAA in the capacity of deemed PIO are directed to show cause as to why maximum penalty under Section 20 (1) of the RTI Act should not be imposed against each of them for not providing the information within the stipulated time. The present CPIO is given responsibility to serve a copy of this order as well as show cause notice to the FAA and secure their attendance on the next date of hearing and also submit their written explanations. All the written explanations of the CPIO & the FAA (deemed CPIO) must reach the Commission within four weeks from the date of receipt of this order. Meanwhile, the respondent is directed to revisit the RTI application and provide the revised information on point no.4 and 7 of the RTI application, within three weeks' time from the date of receipt of this order."

9. In compliance of the aforesaid order, the incumbent CPIO (Ms. Revathi Suresh Kumar) vide communication dated 30.01.2024, furnished the applicant with the requisite information.

10. Subsequently, vide impugned order dated 24.05.2024, the CIC came to the conclusion that negligence on the part of the CPIO (Mr. Piyush Chand) and FAA (Mr. Atul Kumar Chaudhary) appeared to be deliberate and *malafide*, and consequently imposed a penalty of Rs.10,000/- each on the said CPIO and FAA under the provisions of Section 20(1) of RTI Act. Relevant portion of the order reads as under:

“Decision

The Commission after adverting to the facts, perusal of records and hearing both the parties noted that the respondent has provided the information up to the satisfaction of the appellant vide letter dated 30.01.2024 and thus, order dated 11.01.2024 of the Commission is complied with. It is pertinent to mention that information sought was provided after lapse of more than one year and eight months and that too after intervention of the Commission. The information sought by the appellant was related to his premature



repatriation which was denied partially by the respondents by claiming exemption under section 8 (1) (h) of the RTI Act. However, the respondents while replying to the RTI application and the first appeal failed to explain as to how the disclosure of information would fall within the said exempted provisions. The FAA did not apply his mind and simply endorsed the reply given by the CPIO. The order passed by the F.A.A was cryptic and non-speaking. At the seniority of FAA of the rank of a DDG that too of HR, Administration and CVO, such casual approach can have very demoralizing effect on the personnel working in the organization and also erodes their confidence in the appeal mechanism enshrined in the RTI Act. Same holds true for the CPIO also, who is the Director (HR) in the organization. Their conduct in terms of fairness and judiciousness ought to have been exemplary in the instant matter. The respondents during the hearing admitted their mistake for wrongly claiming exemption under section 8 (1) (h) of the RTI Act.

The Perusal of the record reveals that the concerned CPIO and the FAA have evaded their responsibilities entrusted upon them and therefore, acted against the true spirit of the RTI Act. The written explanations given by the respondent in response to the show cause notices are not satisfactory. The acts of the then CPIO and the then FAA show their non-seriousness and lackadaisical approach towards the provisions of the RTI Act as well as towards the Commission. The delay caused in the matter is attributable on part of the respondents. The matter assumes higher gravity because both are looking after HR matter and one of them is CVO also. In view of the above malafide on part of both officials, the then CPIO and the then FAA are established, the Commission finds it a fit case for imposition of penalty under provisions of section 20 (1) of RTI Act.

The Commission observed that the negligence of duty as the then CPIO and the then FAA appears to be deliberate and malafide are established on part of Shri Piyush Chand Gupta, the then CPIO and Shri Atul Kumar Chaudhary, deemed CPIO, hence, both are found liable as per section 20 (1) of RTI Act. In view of this, a penalty of Rs. 10,000/- (Rupees Ten Thousand only) on each of them are imposed on both officers (total amount of Rupees Twenty thousand only). This penalty amount should be deducted from the salaries/pension of each of the two i.e. Shri Piyush Chand Gupta, the then CPIO and Shri Atul Kumar Chaudhary, deemed CPIO/the then FAA, by the Public Authority in two equal instalments and paid by way of demand draft drawn in favour of "PAO, CAT", New Delhi, forward the demand drafts addressed to the Deputy Registrar (CR- II), email: dyregcr2-cic@gov.in Room No. 106, First Floor, Central Information Commission, Baba Gangnath Marg, Munirka, New Delhi 110067. The first instalment of penalty amount should reach to the Commission by 15.07.2024 and the final



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instalment of penalty amount should reach to the Commission by 15.08.2024.”

11. Against the impugned order passed by the CIC, the CPIO (Mr. Piyush Chand) and FAA (Mr. Atul Kumar Chaudhary) filed a representation/application dated 25.06.2024 for modification of the impugned order *viz.* removal of the finding of malafide against them as well as the penalty of Rs.10,000/- each imposed upon them. It is stated that the said representation has not been responded to till date despite repeated follow-ups.

12. Learned counsel on behalf of the petitioner also submits that although the aforesaid representation was filed by the CPIO and FAA; however, in compliance with the directions laid down by the CIC in impugned order, under protest the CPIO and FAA, deposited Rs.10,000/- each. It is stated that the said compliance *vide* letter dated 12.07.2024 was duly informed to the concerned authority.

13. It is the case of the petitioner that even if one is to assume that the CPIO and FAA failed to supply certain documents which were ought to be supplied, at the best it can be held to be erroneous/inadvertent application of Section 8 of the RTI Act.

14. It is averred in the petition that the impugned order erroneously observes that the CPIO and FAA have failed to explain as to how the exemption under Section 8(1)(h) of RTI Act was invoked. It is stated that the CIC was apprised of the fact that the information sought by RTI applicant at serial no.4 pertained to confidential communication/s related to the repatriation of the applicant, and since at that time the issue of repatriation was pending before the DoPT, the concerned officers deemed it



fit to not supply the same to the applicant. It is further averred that the information sought by the applicant at serial no.7 was duly provided from Notesheet no.17 onwards since the noting/s prior thereto had no direct and proximate bearing with the curtailment of deputation tenure and pre-mature repatriation of the applicant.

15. It is noticed that out of a total of eight separate points of information which were sought from the petitioner department, the grievance of the applicant before the CIC was limited *viz.* partial supply of Notesheet pertaining to information sought at serial no. 7 and non-supply of information sought under serial no.4.

16. It is evident that most of the information that was sought by the applicant pertaining to his premature repatriation from UIDAI, was duly supplied to him in a time-bound manner. The petitioner's appeal before the CIC was confined only to denial of information sought *vide* serial nos. 4 and 7 of the RTI application.

17. *Prima facie*, it is untenable to conclude that the CPIO and the FAA acted *malafide* with a view to cause prejudice to the applicant. This is belied by the fact that only a portion of the information sought by the RTI application was withheld/not supplied. The same was also predicated with a view of the FAA as regards applicability of Section 8(h) of the RTI Act.

18. The power conferred by CIC under Section 20 of the RTI Act (to impose penalties) is to be exercised judicially and not mechanically. The same cannot be *ipso facto* invoked in every case where requisite information has not been supplied. It may be that in a particular case, denial of information is on account of misconceived application of the exemption/s



provided for under Section 8 of the RTI Act, however, that by itself would not lead to an inference of *malafides* so as to entail levying of penalty under Section 20 of the RTI Act. In this regard reference is apposite to the view expressed by the coordinate Bench of this Court in ***Registrar of Companies and Ors vs Dharmendra Kumar Garg and Anr***, 2012 SCC OnLine Del 3263. The same reads as under:

“61. Even if it were to be assumed for the sake of argument, that the view taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any reasonable cause. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a showcause notice under Section 20 of the RTI Act and the imposition of penalty. The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.”

19. In the circumstances, it is incumbent on CIC to consider the attendant facts and circumstances to assess whether the conduct of the CPIO/FAA is egregious so as to entail levying of penalty under Section 20 of the RTI Act.

20. A representation/application in this regard has already been submitted



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by the petitioner on 25.06.2024. In the circumstances, it would be apposite if the said application is duly considered and decided by the CIC taking into account the facts and circumstances as highlighted therein. It is directed accordingly. The CIC is requested to decide the same as expeditiously as possible.

21. The present petition is disposed of in the above terms. Pending application/s are also disposed of.

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